

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOHN UNTERSHINE and ANN UNTERSHINE

PLAINTIFFS

V.

CIVIL ACTION NO.1:06CV104 LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY

DEFENDANT

MEMORANDUM OPINION and ORDER

The Court has before it the motion [30] of Defendant State Farm Fire and Casualty Company (State Farm) To Change Venue. The Court also has before it the motion [29] of State Farm To Strike the Testimony of James T. Slider.

State Farm's motion for a change of venue is based upon its contention that a fair and impartial jury cannot be drawn from the pool of jurors available in this division. State Farm asserts that the publicity surrounding the issues to be tried is so pervasive that the selection of a fair and impartial jury is not possible. Based on my having conducted a voir dire examination of the individuals called for jury duty in *Broussard v. State Farm Fire and Casualty Company*, Civil Action No. 1:06cv006, I have determined that a fair and impartial jury can be drawn from the pool of jurors available in this district. I am sensitive to the issues State Farm has raised, and I will conduct the voir dire examination of the potential jurors in this case with attention to the concerns that underlie State Farm's motion. I do not believe, however, that a change of venue is necessary to assure a fair trial in this action.

Upon request, I will grant leave to State Farm's representatives during the trial to make an appropriate record of any additional information relevant to their motion for change of venue should subsequent events make it just to do so.

I have previously heard the qualifications of James M. Slider (Slider), and I have determined that he is qualified to express his opinion within his area of engineering expertise. *Broussard v. State Farm Fire and Casualty Company*, Civil Action No. 1:06cv006 LTS-RHW. Slider is a civil engineer. The plaintiffs have retained Slider to evaluate the weather conditions on the Coast during Hurricane Katrina and to determine whether the winds generated by the storm were sufficient to damage or destroy the plaintiff's insured property. I will deny this motion [29] without prejudice to the right of State Farm to examine Slider concerning any matters touching his qualifications as an expert witness at the time he is tendered as an expert witness.

Accordingly, it is

ORDERED

That the motion [30] of State Farm Fire and Casualty Company To Change the Venue of this action is hereby **DENIED**, without prejudice to its right to seek leave of Court to supplement its objection to venue if events occurring subsequent to the filing of this motion [30] justify such a supplementation; and

That the motion [29] of State Farm Fire and Casualty Company To Strike the Testimony of James T. Slider is hereby **DENIED** without prejudice to the right of the defendant to examine Slider at the time he is tendered as an expert witness in this action.

SO ORDERED this 12th day of February, 2007.

s/ L. T. Senter, Jr.
L. T. Senter, Jr.
Senior Judge